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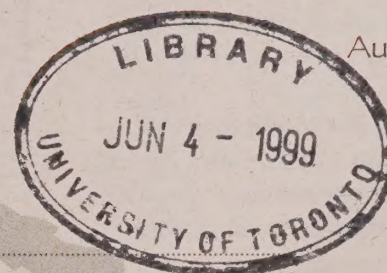
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Indian Affairs in Canada and the United States



August 1998

This information sheet looks at some of the differences and similarities in the ways that the governments of Canada and the United States work with Aboriginal peoples to support stronger Aboriginal communities and economies.

The Aboriginal Peoples of Canada and the United States

In Canada, the Constitution recognizes three groups of Aboriginal people — Indians, Métis people and Inuit. Today, many groups of Indian people prefer to be known as First Nations. Their governing band councils are now called First Nations councils and their communities, First Nations communities. There are 609 First Nations in Canada. The lands set aside for their use by the federal government are called reserves. For the legal purposes of the federal government's *Indian Act*, however, the terms Status Indians and Registered Indians are still used.

In the U.S., many descendants of the original North Americans prefer to call themselves Native Americans. Their groups are called tribes and their governments,

tribal governments. There are 555 federally recognized tribes in the U.S. The lands set aside for their use are called reservations.

The primary Canadian and U.S. departments responsible

In Canada, the Department of Indian Affairs and Northern Development (DIAND) funds the majority of programs and services for Status Indians. Most of these services are administered by First Nations themselves. In addition, 11 other federal departments, including Health Canada, are responsible for particular services for Status Indians and Inuit.

In the U.S., on the other hand, 40 different departments handle Native American issues and programs. The department with primary responsibility is the Bureau of Indian Affairs (BIA).

Aboriginal populations in Canada and the U.S.

Although there are more Aboriginal people in the U.S. than in Canada, Aboriginal people form a greater proportion of the population in Canada. They make up 4.4 percent of the population in Canada, compared with 1 percent in the U.S. The Aboriginal peoples in the U.S. include Eskimos and Aleuts (descendants of the original inhabitants of the Aleutian Islands off the Alaskan Peninsula).

About 60 percent of the Aboriginal people in Canada are Status Indians. More than half of all Status Indians live on 2,370 reserves. These reserves encompass 2.96 million hectares of land.

In the U.S., about 22 percent of Native Americans live on 287 reserves that cover 22.4 million hectares.



Health services

In Canada, health care for all residents is the responsibility of the provincial and territorial governments. Aboriginal citizens receive the same medicare service as any other citizens of the province or territory in which they live.

Through the Medical Services Branch (MSB) of Health Canada, the federal government provides public health services in First Nations communities, as well as medical treatment services in the most remote of these communities. MSB also assists Status Indians and Inuit with medical services not covered by provincial medicare plans. Across the country, First Nations are working with Health Canada to take control of their own health programs. In Manitoba, for example, Health Canada has awarded a five-year contract for the Non-Insured Health Benefits Health Information Claims Processing Service to First Canadian Health Management Corporation Inc., a First Nations joint-venture firm.

In the U.S., the Indian Health Services (IHS) of the U.S. Department of Health and Human Services is responsible for providing health care to Native Americans who live on and off reservations. IHS operates hospitals and clinics on reservations. As in Canada, Native American tribes are taking control of their own health programs, including the operation of eight hospitals and over 300 health centres and clinics.

Population Figures

According to the 1996 Census, 799,010 people in Canada identified themselves as Aboriginal. Of these, 554,000 identified themselves as North American Indian, 210,000 as Métis and 41,000 as Inuit. About 6,400 people reported that they considered themselves to be members of more than one Aboriginal group. In total, Aboriginal people make up 4.4 percent of the population.

According to information supplied by the U.S. Bureau of Indian Affairs, the Bureau served a Native American population of 1,184,000 in 1995. The 1990 U.S. Census showed there were 1.959 million people who identified themselves as Aboriginal. Of these, 57,000 were Eskimos and 24,000 were Aleuts.

Elementary and secondary education

In Canada, First Nations are increasingly taking control of the federal government's budget for their children's elementary and secondary education. In 1998-99, about 88 percent of the \$929-million budget was under First Nations' management. In addition, 98 percent of the schools on reserves are administered by First Nations themselves.

In the U.S., the BIA funds several educational programs to supplement those of public and private schools. The BIA also funds 185 schools, most of which the tribes administer themselves. Over 90 percent of Native American students, however, attend private, public or religious schools.

Post-secondary education

In Canada, Status Indian and Inuit students who qualify can receive federal government financial assistance, through their band and community councils, for post-secondary education. In 1996-97, an estimated 27,500 Status Indian and Inuit students were enrolled in post-secondary education. Students are eligible for assistance covering the cost of books, supplies, travel and living expenses while they attend college or university. In addition, DIAND provides funding for the development of post-secondary programs designed for First Nations people, as well as funding support to the Saskatchewan Indian Federated College, a degree-granting institution entirely governed by First Nations people.

In the U.S., the BIA assists eligible Native American post-secondary students with tuition, travel and living expenses. The BIA also assists tribes to operate 22 community colleges and two post-secondary schools, and provides grants for special education programs for Native American students in 33 states.



Housing

In Canada, DIAND and the Canada Mortgage and Housing Corporation (CMHC) provide financial assistance toward the construction, repair and renovation of on-reserve housing. DIAND and CMHC also provide funds for training, management and technical assistance to enable First Nations to administer their own housing programs.

The federal government has approved a new approach to on-reserve housing following consultations with First Nations leaders. The key elements of this new policy are First Nation control and community involvement; shared responsibilities between the government and First Nations; productive links between housing programs, community economic development and job creation; and opportunities to access non-government investment.

In the U.S., low-income Native Americans are eligible for new homes from the Department of Housing and Urban Development, or for low-interest loans from the Farmer's Home Administration of the Department of Agriculture. The BIA provides housing assistance to Native Americans who are living at the poverty level and are unable to obtain services from other agencies. BIA's Housing Improvement Program, which serves 498 tribes, funds repairs and renovations to existing homes and builds replacement homes.

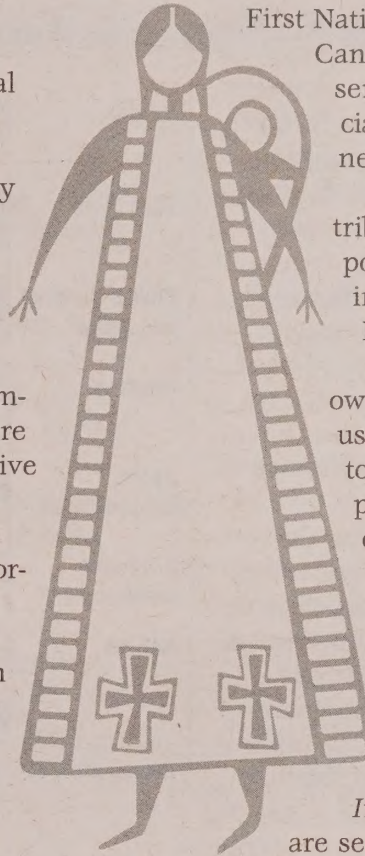
Child welfare

In Canada, the federal government funds and promotes the development of child and family service agencies that are designed, managed and controlled by First Nations. This means that First Nations have access in their own communities to child welfare services that are sensitive to their own cultures. These agencies receive their mandate and authority from the provincial and territorial governments. They operate in a way that is in keeping with existing provincial and territorial child and family services legislation.

In the U.S., legislation passed in 1978 gives tribal governments the power to intervene in child custody proceedings where Native American children have been removed by the state and placed in foster care. This legislation also provides tribes with grants to operate child and family services.

Policing and court systems

In Canada, many First Nations now have their own police forces and justices of the peace on reserves. Under the First Nations Policing Policy of the Solicitor General of Canada, over 100 First Nations communities have signed tripartite agreements with the federal and provincial governments. As a result, more than half of all



First Nations members in Canada receive policing services that are specially designed for their needs and cultures.

In the U.S., many tribes have their own police forces operating on reservations. Numerous tribes have also developed their own court systems that use traditional methods to resolve civil disputes and deal with crimes committed by Native Americans on tribal lands. The BIA helps fund these courts.

Treaty rights

In Canada, there are several types of historical treaties. These include pre-Confederation and post-Confederation treaties. Pre-Confederation treaties include Maritime peace and friendship treaties (1725 to 1779); the Murray Treaty made with the Hurons of Lorette in what is now Quebec (1760); Upper Canada land surrenders (1764 to 1862); and the Vancouver Island treaties (1850 to 1854). After Confederation, the new federal government signed a series of treaties with First Nations. These are commonly known as the "Numbered Treaties." In exchange for vast tracts of land, the Aboriginal signatories to the Numbered Treaties received, among other things, reserve lands, agricultural equipment and farm livestock, annuities, ammunition, one-time payments and clothing. The Williams Treaties of

1923 are another type of post-Confederation treaty. The Aboriginal signatories to this treaty exchanged their interest in lands of central southeastern Ontario, and their hunting and fishing rights, for a cash payment.

Today, modern treaties take the form of comprehensive land claim agreements. These agreements are negotiated in those areas where claims have not been addressed by treaty or other legal means.

In the U.S., following the American Revolution of 1776, the government made some treaties with Native Americans. These were mostly simple cessions of land. Some mentioned one-time payments, while others included hunting and fishing rights. In 1871, the U.S. Congress ruled that Native American tribes would no longer be recognized as independent nations with whom the government had the legal means to make treaties.

Self-government

In Canada, First Nations now have control of about 83 percent of DIAND's program budget to deliver programs and services on reserves, including housing and education. The Government of Canada recognizes the inherent right of self-government as an existing Aboriginal right under section 35 of the *Constitution Act, 1982*. The federal government is now negotiating self-government agreements with over 80 Aboriginal groups. The government sees the scope of Aboriginal jurisdiction as likely extending to matters

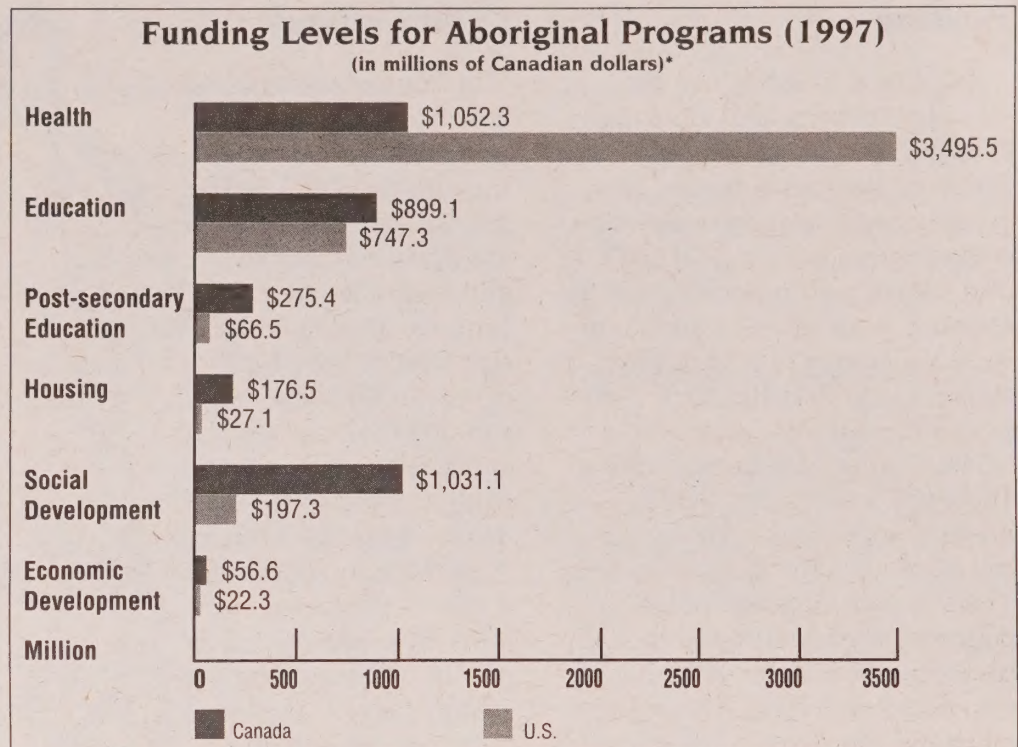
that are internal to the Aboriginal group, integral to its distinct Aboriginal culture, and essential to its operation as a government or institution.

Several First Nations have negotiated self-government in conjunction with their land claims settlements. These include the Sechelt Band in British Columbia and the Cree nations in Northern Quebec.

Under the negotiated agreements, rules of priority may provide for Aboriginal laws to rank above other laws. However, all agreements operate on the basic principle that federal and provincial laws of overriding national or provincial importance will prevail over conflicting Aboriginal laws. Aboriginal people with their own governments remain citizens

of Canada and the province or territory in which they live.

In the U.S., in the 1830s, courts developed the concept of *domestic dependent nations*. Under this concept, external sovereignty was ended. But internal sovereignty (self-government) remained. Tribal government powers are, however, subject to treaties, decisions of the U.S. Congress and court rulings. Tribal governments have contracts with the government to take over the delivery of services and programs on reservations. The self-governance demonstration project involves 30 tribes and several government agencies. Most tribal governments have authority in economic affairs, general welfare and by-laws on reservations.



* Conversion of U.S. amounts to Canadian dollars was based on an exchange rate of US \$0.67 for Cdn. \$1.

DEFINITIONS

Aboriginal rights: Rights that some Aboriginal peoples of Canada hold as a result of their ancestors' longstanding use and occupancy of the land. The rights of certain Aboriginal peoples to hunt, trap and fish on ancestral lands are examples of Aboriginal rights. Aboriginal rights will vary from group to group depending on the customs, practices and traditions that have formed part of their distinctive cultures.

Indian Act: This is the Canadian federal legislation, first passed in 1876, that sets out certain federal government obligations, and regulates the management of Indian reserve lands. The act has been amended several times, most recently in 1985. Among its many provisions, the act requires the Minister of Indian Affairs and Northern Development to manage

certain moneys belonging to First Nations and Indian lands, and to approve or disallow First Nations by-laws.

Inuit: An Aboriginal people in northern Canada, who live above the tree line in the Northwest Territories, and in Northern Quebec and Labrador. The word means "people" in the Inuit language — Inuktitut. The singular of Inuit is Inuk.

Métis: People of mixed First Nation and European ancestry who identify themselves as Métis people, as distinct from First Nations people, Inuit or non-Aboriginal people. The Métis have a unique culture that draws on their diverse ancestral origins, such as Scottish, French, Ojibway and Cree.

Non-Status Indian: An Indian person who is not registered as an Indian under the *Indian Act*. This may be because his or her ancestors were never registered, or because he or she lost Indian status under former provisions of the *Indian Act*.


Status Indian: An Indian person who is registered under the *Indian Act*. The act sets out the requirements for determining who is a Status Indian.

Publications and Public Enquiries

Department of Indian Affairs
and Northern Development
Ottawa, Ontario K1A 0H4

(819) 997-0380
www.inac.gc.ca

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